

THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION

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2023 SEP -7 PM 4:04

GREGG MARCEL DIXON
3909 Rice Shire
Ridgeland, SC 29936

Plaintiff,

-against-

JAMES E. CLYBURN, Individually,
and in his official capacity as a
Member of the United States Congress
1225 Lady Street
Columbia, SC 29201

X CORP f/k/a TWITTER, INC.,
1355 Market Street, #900
San Francisco, CA 94103

Defendants.

COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF AND DAMAGES FOR
VIOLATION OF CONSTITUTIONAL RIGHT
TO FREE SPEECH AND RELATED CLAIM.

CIVIL ACTION

CASE NUMBER: 9:23-cv-04500-SAL-MHC

JURY TRIAL DEMANDED

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF
AND DAMAGES FOR VIOLATION OF CONSTITUTIONAL RIGHT
TO FREE SPEECH AND RELATED CLAIM.

COMES NOW the plaintiff, Gregg Marcel Dixon, self-represented, as and for a Complaint against the defendants above named, states, alleges, and avers as follows:

PRELIMINARY STATEMENT

1. Plaintiff, Gregg Marcel Dixon, brings this action to recover damages for the deprivation of his free speech rights as a citizen of the United States as guaranteed by the First Amendment to the United States Constitution by two tortfeasors arising out of (a) defendant Congressman James E. Clyburn blocking and muting plaintiff from his social media accounts on Twitter and (b) the negligence of defendant X Corp f/k/a Twitter, Inc. (hereinafter “Twitter”) for failing to properly manage its’ platform.

2. Defendant Congressman James E. Clyburn, an elected public official, engaged in state action subject to the First Amendment when he blocked and muted plaintiff from his personal social media accounts on Twitter, when defendant Congressman James E. Clyburn used such accounts to feature his job and communicate about job-related matters with the public, but was not doing so pursuant to any governmental authority or duty. *See, Garnier & Garnier vs. O’Connor & T.J. Zane*, No. 3:17-cv-00215, U.S.D.C. S. Cal. (2021), U.S. Ct. of Appeals, 9th Cir., Nos. 21-55118, 21-55157 (2022), U.S. Supreme Ct., *Cert. Granted*, pending, Case No. 22-324 (public official engaged in state action and violated First Amendment Rights of constituents by blocking constituents on Twitter). *See also, Lindke vs. Freed*, No. 2:20-cv-10872, U.S.D.C. E.D. Mich. (2021), U.S. Ct. of Appeals, 6th Cir., No. 21-2977 (2022), U.S. Supreme Ct., *Cert. Granted*, pending, Case No. 22-611 (public official did not engaged in state action and did not violate First Amendment Rights of constituent by blocking constituent on Twitter).

3. Defendant Twitter, as owner and operator of the social media and communications platform commonly known as Twitter, is negligent in its' management and operations of Twitter because it breached a duty of care owed plaintiff as a Twitter account holder and but for its' breach of duty plaintiff would not have suffered any damages arising from being blocked or muted by defendant Congressman James E. Clyburn.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction over this action pursuant to (I) 28 U.S.C. § 1331, which confers original jurisdiction upon this Court for actions arising under the laws of the United States; and (ii) under the Declaratory Judgment Statute, 28 U.S.C. § 2201.

5. Venue is proper in the Beaufort Division of the District Court of South Carolina pursuant to 28 U.S.C. §§ 1391(b)(1) and (c), in that the plaintiff resides in this judicial district and a substantial portion of the acts that make up the basis of the Complaint occurred within this judicial district.

DEMAND FOR TRIAL BY JURY

6. Pursuant to Rule 38(b) FRCP, the plaintiff hereby demands a jury of all issues to triable.

NO IMMUNITY UNDER STATE LAW

7. Plaintiff avers that the wrongful and illegal actions and inactions and omissions of defendants Congressman James E. Clyburn and Twitter complained of herein were practiced with actual malice and reckless disregard towards plaintiff and his legal rights and property interests, and were willful, and constituted malicious, intentional, willful, outrageous, reckless, and flagrant

misconduct, so as to deprive the defendants of any immunity under the laws of any State. Plaintiff further avers that any State law, ordinance, proclamation, regulation, statute, etc., pursuant to which defendants claim they acted, is unconstitutional, and the defendants' conduct pursuant to any State law, ordinance, proclamation, regulation, statute, etc., which violated plaintiff's federally guaranteed rights cannot be immunized by State law.

PARTIES

8. At all times herein, plaintiff Gregg Marcel Dixon is a citizen of the United States and a resident of the City of Ridgeland, County of Jasper, State of South Carolina.

9. At all times herein, plaintiff Gregg Marcel Dixon is a resident of the 6th Congressional District of South Carolina and a constituent of defendant Congressman James E. Clyburn. Plaintiff, was, and continue to be, a candidate for the office of Member of Congress for the 6th Congressional District of South Carolina.

10. At all times herein, plaintiff Gregg Marcel Dixon is a registered voter in the City of Ridgeland, Jasper County, State of South Carolina.

11. At all times herein, defendant Congressman James E. Clyburn was, and continues to be, the elected Member of the U.S. House of Representatives representing the 6th Congressional District of South Carolina. Congressman Clyburn has been representing the 6th Congressional District since 1993.

12. At all times herein, defendant Congressman James E. Clyburn is a resident of the State of South Carolina.

13. At all times herein, *arguendo*, defendant Congressman James E. Clyburn is one of the top Democratic in the United States Congress, currently serving as the Assistant Democratic Leader in the U.S. House of Representatives and Chairman of the Democratic Faith Working Group. Defendant Congressman James E. Clyburn previously served as the U.S. House Majority Whip from 2007-2011 and 2019- 2022. He served as Chairman of the Congressional Black Caucus and Chair of the House Democratic Caucus. Defendant Congressman James E. Clyburn has been substantially responsible for securing federal funding of projects in the State of South Carolina in FY21, FY22 and FY23 in excess \$1,800,000,000 (One-Billion-Eight-Hundred-Million Dollars).

14. At all times herein, defendant James E. Clyburn is being sued in his individual capacity as well as in his official capacity as a Member of the United States Congress.

15. At all times herein, defendant X Corp, a privately held Nevada corporation, is the successor to Twitter, Inc., a Delaware Corporation, by merger. Pursuant to 8 *Del C. Section 259*, defendant X Corp succeeded to all of Twitter Inc.'s obligations upon its merger with Twitter, Inc.

16. At all times herein, defendant Twitter owns, operates, manages, controls and set policies and standards for the social media communications platform commonly known as Twitter.

STATEMENT OF RELEVANT FACTS

17. At all times herein, defendant Congressman James E. Clyburn created, maintained operated and controlled two verified¹ Twitter accounts that he used to feature his job and

¹ According to Twitter's User Guide, verification is a process whereby the authenticity of the Twitter account holder is confirmed and is indicated by check mark next to account holder's name.

communicate about job-related matters with the public, but was not doing so pursuant to any governmental authority or duty.

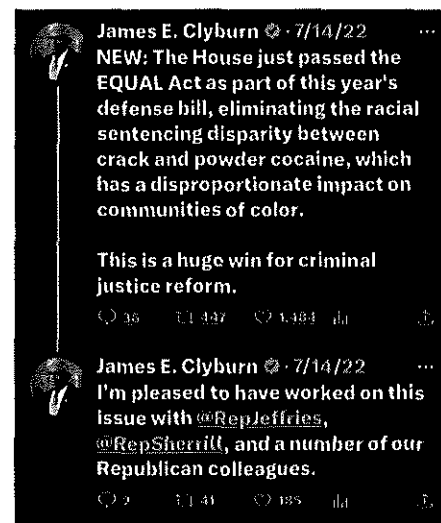
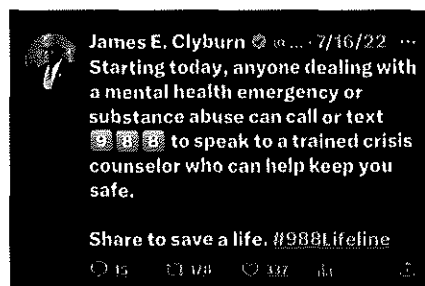
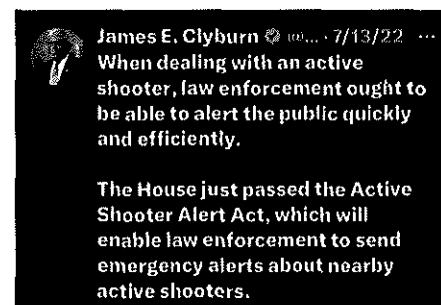
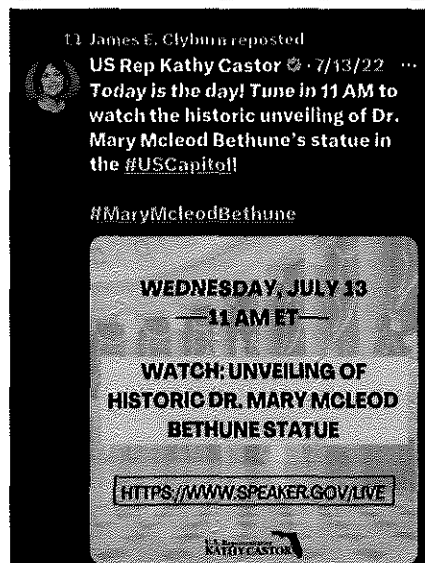
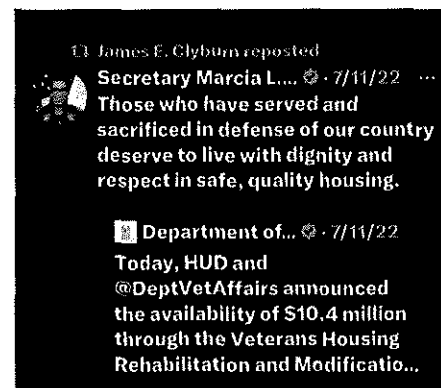
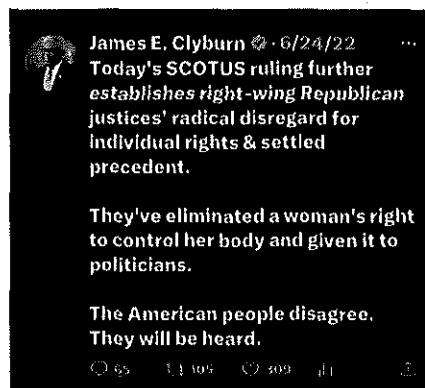
18. At all times herein, defendant Congressman James E. Clyburn verified Twitter accounts are James E. Clyburn/@RepJamesClyburn and Jim Clyburn@ClyburnSC06.

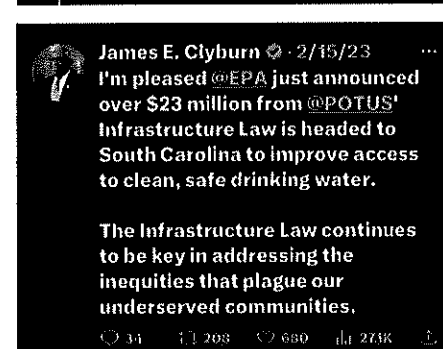
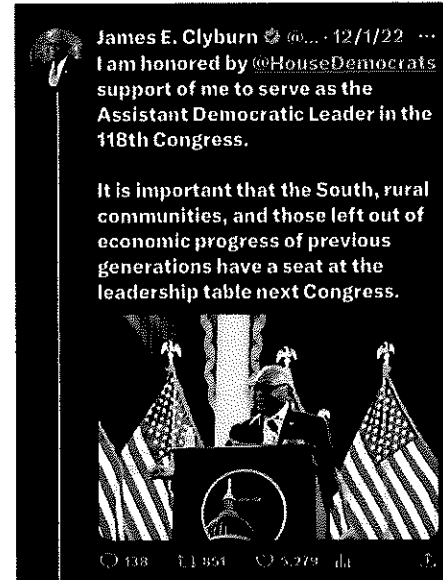
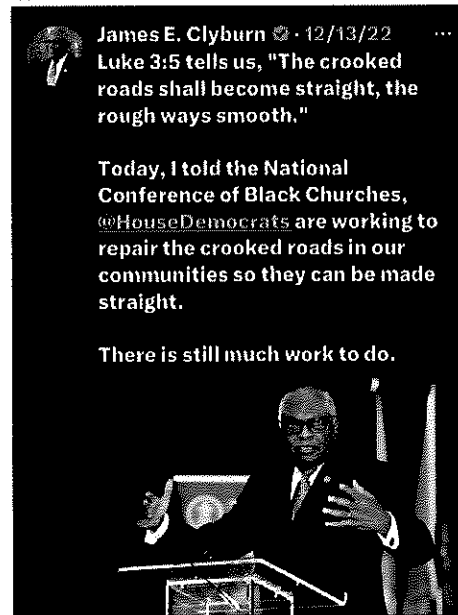
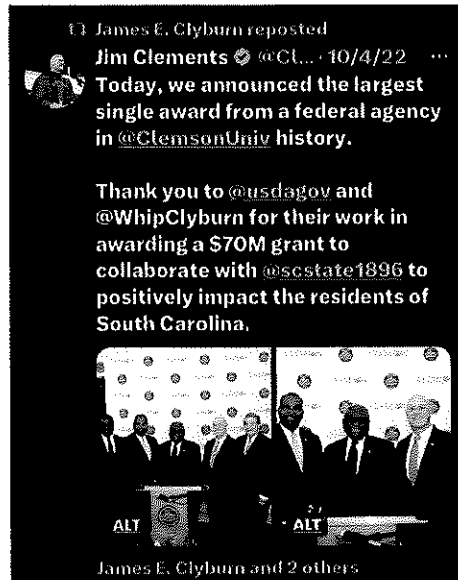
19. As of September 5, 2023, defendant Congressman James E. Clyburn had approximately 189,200 Twitter followers.

20. The following are representative tweets of defendant Congressman James E. Clyburn and are indicative of the tweets the at the time of blocking or muting the plaintiff:




-more-





Jim Clyburn @Clyb... · 5/23/17 ...

I will be having a town hall on June 1st at Black River Electric Cooperative, 1121 N Pike W, Sumter, S.C., 6-8 p.m.



Jim Clyburn
US CONGRESS

For Immediate Release
May 23, 2017

Event:
Rural Electric Cooperative
Sumter, SC 29166

Congressman Clyburn Announces Town Hall in Sumter, SC
Thursday, June 1

COLUMBIA - Congressman Jim Clyburn announced a town hall meeting with the Black River Electric Cooperative, a local electric utility, on Thursday, June 1, 2017, at 6 p.m. in Sumter, SC. The town hall meeting will focus on the cooperative's efforts to provide energy services and address the needs of its customers. Clyburn will also discuss the impact of the Rural Energy Savings Program (RESP) on the cooperative's customers. The town hall meeting is free and open to the public. For more information, visit jimclyburn.house.gov.

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Contact:
Rep. Jim Clyburn, SC-6
202-225-4111
jim.clyburn@house.gov

If you believe you received this message in error, please notify the sender. This message and its contents are confidential and may be subject to the Freedom of Information Act.

0 114 7 1

Jim Clyburn @Clyb... · 12/6/21 ...

RESP creates jobs, save American families & businesses money on their electric bills and reduce air pollution. Millions of dollars in RESP funds have helped many customers in South Carolina lower their electric bills by \$100+ /month.


James E. Clyburn @Clyb... · 12/6/21

I'm pleased the House-passed #BuildBackBetter Act includes \$200 million for the Rural Energy Savings Program that I helped launch in 2014....

Jim Clyburn @Clyb... · 7/5/22 ...

WATCH: For Congressional action to fully address police behavior and guns on our streets, we need voter intervention this November.

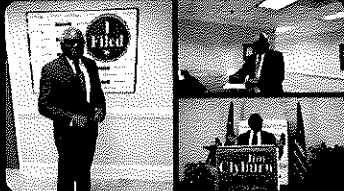
The House has demonstrated what can be done with a clear majority. Democrats need a clear majority in the Senate to affect real change.



Jim Clyburn @Clyb... · 3/21/22 ...

Today I officially filed to run for re-election.

When I ran for Congress I promised that I would commit myself to "Service over self and principles over politics" & I will continue to do so in 2022!



90 11829 4324 1

Jim Clyburn reposted

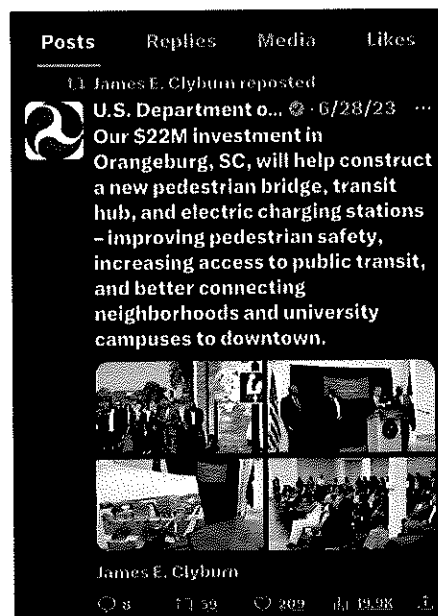
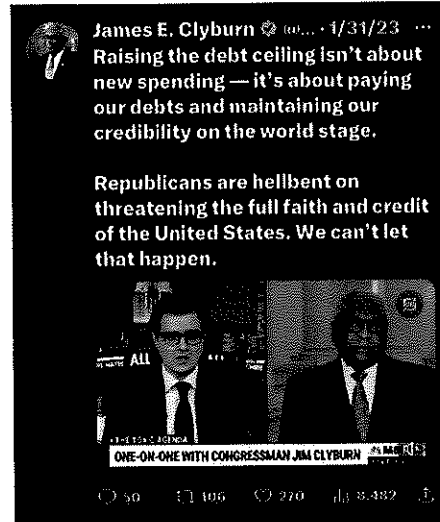
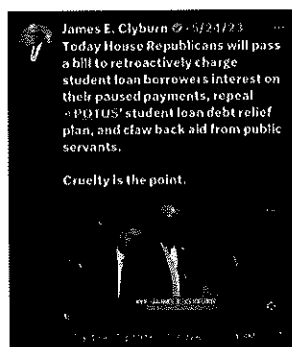
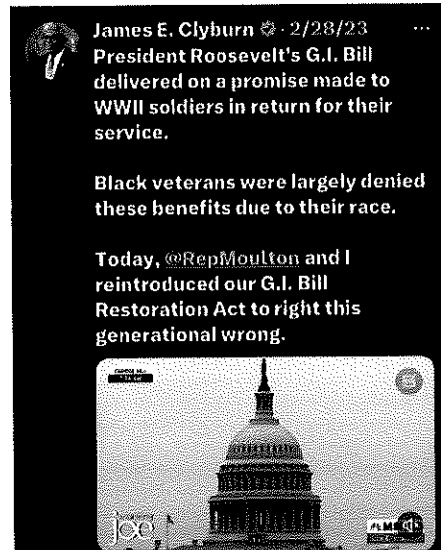
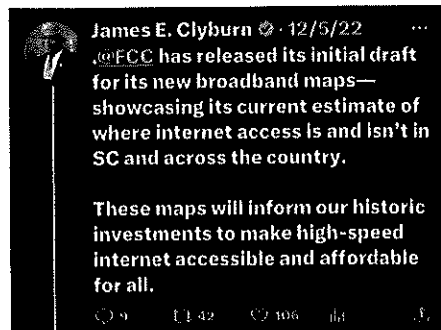
Jim Clyburn @Clyb... · 6/24/22 ...

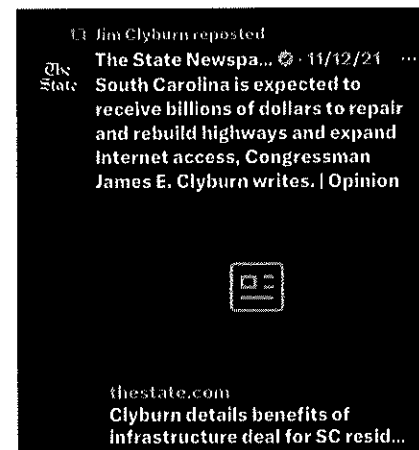
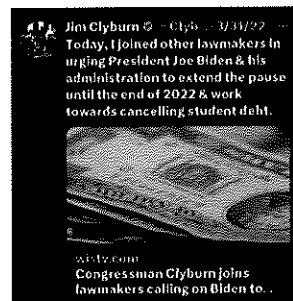
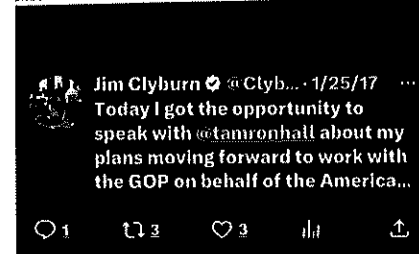
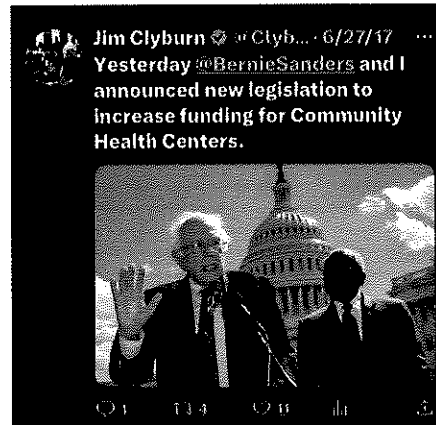
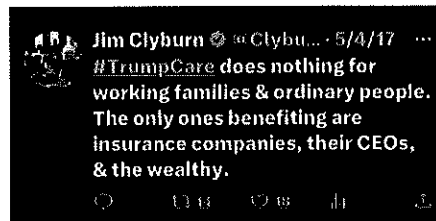
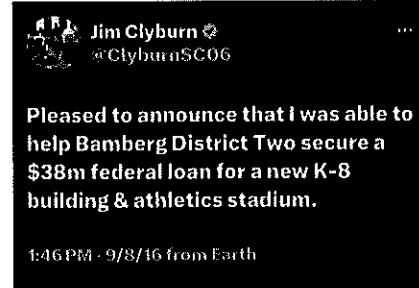
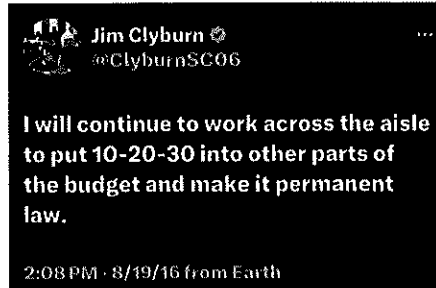
STATEMENT: This decision put the health of millions of women in danger, disproportionately impacting women of color & low-income communities. For nearly 50 yrs, women have had the const. right to make their own decisions about their health & their bodies.

Jim Clyburn @Clyb... · 5/4/17 ...

#TrumpCare does nothing for working families & ordinary people. The only ones benefiting are insurance companies, their CEOs, & the wealthy.

14 18 1 1





21. Twitter is a ‘social media platform’ consisting of an online community to facilitate people, businesses, government officials, government agencies and other institutions finding and forming an exchange of different content.

22. A Twitter user is an individual, business, government official, government agency or other institution who has created an account on the social media platform.

23. Users of Twitter can post or digitally share text, written messages, photographs, videos, or links to other articles or webpages from their Twitter accounts. Users can also broadcast live streams of video world-wide from their respective Twitter accounts.

24. By default, any other Twitter user can comment on public posts of any other Twitter user-thereby creating an open forum.

25. Users can also add written replies to prior submitted comments to support, oppose or debate the substance of a prior public post.

26. Pursuant to its’ User Guide, Twitter, generally, does not moderate or pre-approve posts or comments but can remove any post or comment if it decides to do so.

27. Twitter users can choose to block or mute any other Twitter user at will, as defendant Congressman James E. Clyburn and done to plaintiff.

28. Defendant Congressman James E. Clyburn is a public figure, holding elective office as a United States Congressman.

29. Defendant Congressman James E. Clyburn, prolifically uses his twitter accounts to feature his job-related work as a government official and communicate about government policy,

programs and opportunities for his constituent and not doing so pursuant to any governmental authority or duty.

30. Defendant Congressman James E. Clyburn tweeter accounts are a traditional public forum.

31. At all times herein, plaintiff has been a Twitter account holder since 2011 and currently has accounts using the hashtags of @Marcel4Congress and @IamKatoEmir.

32. At all times herein, plaintiff has openly and notoriously posted critical comments about the policies, political positions, funding priorities, and other job-related matters of defendant Congressman James E. Clyburn.

33. Plaintiff was a certified competing candidate in the Democratic Primary Election in June, 2022, challenging defendant Congressman James E. Clyburn for the office of Member of Congress for the 6th Congressional District of South Carolina.

34. Upon information and belief, sometime during May of 2022, Defendant Congressman James E. Clyburn blocked and muted plaintiff from having access or posting on his Twitter accounts, including the deletion of comments posted by plaintiff and allowing comments posted by plaintiff from appearing on the Twitter accounts in comments or reposted comments by other Twitter users.

35. To date, plaintiff continues to be blocked and muted from access and posting on Defendant Congressman James E. Clyburn Twitter accounts.

36. According to defendant Twitter policy, Twitter account holders that are public officials, persons who seeking public office are automatically subject to verification, recognizing

the special public interest nature of these accounts and a duty to limit fraud and dishonesty on its' platforms and the legitimate corporate interest to facilitate the free flow of ideas amongst its' users.

37. Defendant Twitter knew, or should have known, that it was foreseeable, if left improperly managed, state actors like defendant Congressman James E. Clyburn, would engage in unconstitutional activity within the use twitter accounts by blocking and muting other Twitter users, like plaintiff, who are critics of their official job-related performance.

**COUNT ONE
AS AND FOR A FIRST CAUSE OF ACTION
AGAINST
CONGRESSMAN JAMES E. CLYBURN**

Violation of 42 U.S.C. Section 1983

38. The plaintiff realleges each and every allegation set forth herein above as if repeated verbatim.

39. Plaintiff asserts that defendant James E. Clyburn, in his official capacity, retaliated against plaintiff, by blocking and muting plaintiff and preventing plaintiff from commenting in a public forum, namely Twitter, because of his criticism of defendant James E. Clyburn, cause sever harm to plaintiff by preventing plaintiff from exercising his rights and privileges secured by the Constitution and Laws of the United States, as provided by the free speech provisions of First Amendment to the U.S. Constitution.

40. Given plaintiff's political challenge to Defendant James E. Clyburn office in June of 2022, defendant James E. Clyburn used his Twitter accounts quash political speech in violation of plaintiff's First Amendment Rights.

41. Defendant James E. Clyburn continue to ban plaintiff from access to his twitter accounts and exercising his First Amendment rights to free speech and, in doing so, denies or diminishes a significant opportunity for a more robust and diverse political debate on issues of public concern.

42. Plaintiff avers that defendant Congressman James E. Clyburn, knew or should have known, with the exercise of reasonable care, that he was acting in a willful, malicious, wanton, and reckless manner in blocking and muting plaintiff on Twitter, as such actions relates to the violation of plaintiff's constitutional right to free speech and the harm arising therefrom. Therefore, plaintiff is entitled to compensatory damages in the amount of \$10,000,000.00 (TEN-MILLION-DOLLARS), as well as costs and attorney fees.

43. Further, plaintiff asserts that defendant Congressman James E. Clyburn, individually, should be subject to punitive damages for the willful, wanton, and reckless violation of plaintiff's First Amendment Right to free speech and the damages arising therefrom.

**COUNT TWO
AS AND FOR A SECOND CAUSE OF ACTION
AGAINST
X CORP f/k/a TWITTER, INC.**

Negligence

44. The plaintiff realleges each and every allegation set forth herein above as if repeated verbatim.

45. By its' own policies, defendant Twitter owed a duty of care to plaintiff to manage its' social media platform to limit fraud, dishonesty on its' platform and prevent or not facilitate

the breach of constitutional obligations of its' users that are state actors, as did defendant James E. Clyburn, particularly given its' stated interest in encouraging the free flow of ideas.

46. Defendant Twitter breached its' duty of care to plaintiff by mismanaging its' social media platform and, but for such breach defendant, plaintiff would not have suffered damages.

47. Plaintiff avers that defendant Twitter, knew or should have known, with the exercise of reasonable care, that it was acting in a willful, malicious, wanton, and reckless manner by not preventing the blocking and muting plaintiff on Twitter, as such actions were foreseeable, as they relate to the violation of plaintiff's constitutional right to free speech, including political speech, and the harm arising therefrom. Therefore, plaintiff is entitled to compensatory damages in the amount of \$10,000,000.00 (TEN-MILLION-DOLLARS), as well as costs and attorney fees.

48. Further, plaintiff asserts that defendant Twitter should be subject to punitive damages for the willful, wanton, and reckless violation of plaintiff's First Amendment Right to free speech and the damages arising therefrom.

PRAYER FOR RELIEF

WHEREFORE, plaintiff prays for judgment against the defendants as follows:

- (a) that this Court assume jurisdiction of this matter;
- (b) issue and Order finding defendants in violation of all allegations in each and every Count of this Complaint;
- (c) issue a declaratory judgment finding defendants' acts complained of herein were unconstitutional;

- (d) issue an Order compelling defendants to unblock plaintiff and grant access to plaintiff to Twitter accounts of defendant Congressman James E. Clyburn;
- (e) issue an Order compelling defendant Twitter to institute a policy where Twitter account holders, deemed state actors, cannot block, mute or otherwise silence constituents;
- (f) award plaintiff compensatory damages of \$10,000,000.00 (TEN-MILLION DOLLARS);
- (g) hold defendants joint and severally liable for compensatory damages awarded to plaintiff, and *in so lido* for such damages;
- (h) award plaintiff punitive damages against defendants;
- (i) retain jurisdiction of this action until defendants have fully complied with all Orders of the Court;
- (j) award plaintiff attorney fees and costs;
- (k) make further Orders as the Court deem just, necessary, and proper.

Respectfully Submitted,



Gregg Marcel Dixon
Plaintiff, Self-Represented
3909 Rice Shire
Ridgeland, South Carolina 29936
(843) 305-1358
E-Mail: gmarceldixon@gmail.com

Dated: September 7, 2023
Ridgeland, South Carolina